

EXPLANATORY MEMORANDUM TO
THE EVIDENCE THROUGH TELEVISION LINKS
(ENGLAND AND WALES) ORDER 2013

2013 No. 1598

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. **Purpose of the instrument**

2.1 By virtue of the power conferred by section 29(1) of the Crime (International Co-operation) Act 2003 ('the 2003 Act'), this Order provides for section 32(1A) of the Criminal Justice Act 1988 (proceedings in which evidence may be given through television link) to apply to extradition proceedings.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

4. **Legislative Context**

4.1 Part 1 of the 2003 Act provides statutory powers pursuant to which the United Kingdom can both seek and provide various forms of mutual legal assistance concerning criminal matters. This includes the hearing of witnesses from abroad via television link.

4.2 Under section 29 of the 2003 Act, the Secretary of State may by order provide for section 32(1A) of the Criminal Justice Act 1988 (proceedings in which evidence may be given through television link) to apply to any further description of criminal proceedings, or to all criminal proceedings.

4.3 Section 32 of the Criminal Justice Act 1988 currently applies to trials on indictment, appeals to the criminal division of the Court of Appeal, hearings of references under section 9 of the Criminal Appeal Act 1995, proceedings in youth courts, appeals to the Crown Court arising out of such proceedings and hearings of references under section 11 of the Criminal Appeal Act 1995 so arising.

4.4 Extradition proceedings fall within the meaning of criminal proceedings (see *R v Governor of Brixton Prison ex parte Levin* [1997] AC 741), and this Order therefore makes it possible to hear evidence from witnesses located abroad in extradition proceedings taking place in England and Wales.

5. Territorial Extent and Application

5.1 This instrument extends to England and Wales.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 At present, there is no provision in law permitting a witness located overseas to give evidence in extradition proceedings which are taking place in England and Wales.

7.2 Sections 206A to 206C of the Extradition Act 2003 allow for a live link to be used where 'the person affected by an extradition claim is likely to be in custody during the hearing' however this does not include the hearing of witnesses from abroad.

7.3 Section 51 of the Criminal Justice Act 2003 makes provision for live links in certain criminal proceedings but only from another location in the UK.

7.4 It is becoming increasingly frequent, in extradition proceedings, for one or other of the parties to request that the court receive video link evidence from a witness who is abroad. In appropriate cases, this would be an efficient and cost effective method of ensuring that appropriate evidence is available to the Court.

8. Consultation outcome

8.1 Submissions were received from the Attorney General's Office, the Crown Prosecution Service, the Crown Office & Procurator Fiscal Service, the Crown Solicitor's Office in Northern Ireland and Justice. No objections were raised.

9. Guidance

9.1 Guidance will be issued separately to the Magistrates Courts which deal with extradition cases.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The outcome will be subject to internal review in 12 months to assess whether any unintended outcome has occurred.

13. Contact

Anjuli Old at the Home Office Tel: 0207 035 3924 or email:
Anjuli.Old@homeoffice.gsi.gov.uk can answer any queries regarding the instrument